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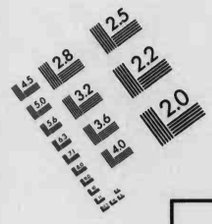
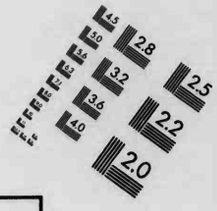
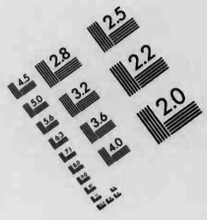
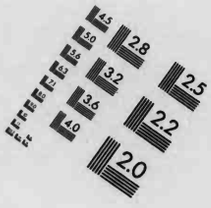

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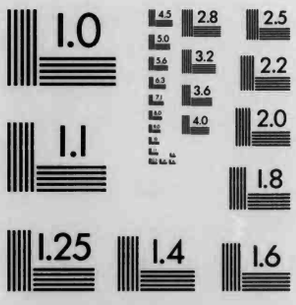

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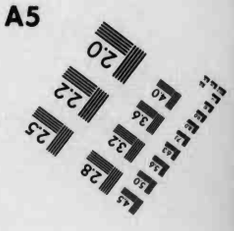
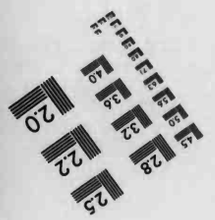
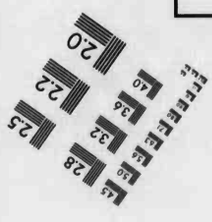
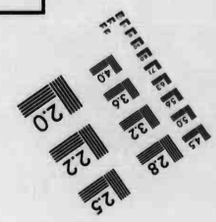

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ARBITRATION BETWEEN CARRIERS AND EMPLOYEES
BOARDS OF ADJUSTMENT

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE COMMERCE UNITED STATES SENATE

SIXTY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 2646

A BILL TO PROVIDE FOR THE EXPEDITIOUS AND PROMPT SETTLEMENT, MEDIATION, CONCILIATION, AND ARBITRATION OF DISPUTES BETWEEN CARRIERS AND THEIR EMPLOYEES AND SUBORDINATE OFFICIALS, AND FOR OTHER PURPOSES

SUPPLEMENT

Printed for the use of the Committee on Interstate Commerce.

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1924

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ARBITRATION BETWEEN CARRIERS AND EMPLOYEES' BOARDS OF ADJUSTMENT

MONDAY, APRIL 7, 1924

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

STATEMENT OF W. V. O'NEIL, PRESIDENT INTERNATIONAL ASSOCIATION OF RAILROAD SUPERVISORS OF MECHANICS

Mr. O'NEIL. Mr. Chairman and members of the committee, in order to properly present our views in connection with the pending legislation, and especially in view of statements that have been made at your previous hearings concerning the subordinate official classes, I believe it to be very essential that I briefly explain to you, first, the position those for whom I speak occupy in the railroad industry; second, the circumstances surrounding these positions at the time the association I represent was organized, as compared to the present status. If you will kindly bear with me for a few moments, you will then have a clearer understanding of our position.

I will preface my remarks by saying that the International Association of Railroad Supervisors of Mechanics was organized in St. Louis, Mo., October 28 to 31, 1918, and is composed entirely of persons having supervision of mechanics employed in the various departments on railroads, all of whom come within the term "subordinate official," as prescribed by the Interstate Commerce Commission in its Ex parte 72. It is not associated or affiliated with any organization or association of railroad employees or subordinate officials.

The supervisor of mechanics could, I believe, be properly termed the buffer between the management and the employee. His duties are numerous and varied; his responsibilities are great. He must not only be a skilled mechanic but an organizer of men and a reasonably capable diplomat also, for he frequently acts as mediator between employee and official. He is charged with the responsibility of expending a considerable portion of the money used in operating the railroads. He is responsible for the efficient and economical operation of the various departments in connection with the upkeep of power and equipment used in the transportation service. It is true that he has superior officers who, more or less, share these responsibilities, but owing to the fact that he is in direct charge of the work, he is the one who is held directly responsible for anything that goes wrong with the work performed under his supervision. Much more could be said with reference to his individual

responsibility in connection with seeing that safety appliance, boiler, and locomotive inspection laws are religiously lived up to, but I will not go into this matter in detail, as I am confident the committee realizes the important part the supervisor of mechanics plays in the efficient and economic operation of the railroads.

For a number of years prior to Federal control of the railroads the wages and working conditions of the mechanics were gradually improving; but the conditions of supervisors of mechanics, owing to the fact they were not organized, remained in status quo. It is a fact that a considerable number of the supervisors of mechanics were members of organizations of employees that now comprise what is known as the Federated Shop Crafts. It is further a fact that the representatives of these organizations attempted, in some instances, during wage negotiations, to represent the foremen. This effort, however, was usually made after satisfactory agreements had been reached affecting the employees; therefore, the managements invariably declined to permit them to represent the supervisory forces, assuming the position that such men constituted their official family and intimating that they would take care of their "family." The result was that the mechanics would receive increases retroactive to the date the negotiations commenced, sometimes amounting to a considerable sum, while the supervisors would receive a letter from the management probably 30 days or more after the committeemen had returned to work reasonably satisfied, advising them that on account of the excellent service they had rendered and the loyalty they had always displayed toward the management their wages would be increased by the substantial sum of $5 per month, effective 30 days hence. It is, therefore, not surprising to those familiar with conditions existing during the period referred to, to find, according to a report of the Railroad Labor Board, supervisors of mechanics, who were paid a monthly salary in December, 1917, were receiving a general average of 17 cents per day above the average daily rates of the mechanics. In further connection with this, the supervisors were required to work unlimited hours; as a matter of fact, a substantial number were required to supervise one entire shift and part of two other shifts of mechanics in each 24-hour period.

General Order No. 27, which was issued by the Lane commission and which more or less affected the compensation of all those engaged in the railroad industry, in a minor capacity, failed to relieve this deplorable situation. In June, 1918, I was delegated by supervisors on several railroads entering St. Louis to go before the Board of Railroad Wages and Working Conditions, which was composed of representatives of the employees' organizations and representatives of the managements and which succeeded the Lane commission. I showed the members of this board wherein the mechanic whom I placed temporarily in my position of roundhouse foreman for the Wabash Railroad at St. Louis, working the same number of hours each day which I had been working for five years, would make $297.50 during the month of June, while my rate was $135 per month. The mechanic in question was being paid in accordance with the rules and rates established for mechanics. Supplement No. 4 to General Order 27, issued by the Board of Railroad Wages and

Working Conditions, granted a flat increase of $40 per month to foremen being paid a monthly salary and 5 cents per hour above the mechanics' rate to hourly rated foremen. This decision was generally unsatisfactory to the supervisors of mechanics, and on September 17, 1918, the following protest, which I quote in part, was drafted and presented to Mr. G. L. Sines, chairman of the board of Railroad Wages and Working Conditions, and a copy mailed to Director Generel W. G. McAdoo:

> We, the undersigned committee representing the supervisory forces of the locomotive and car departments of the various railroads, as shown in the attached, hereby present to you the following protest to Article III, section 5, of supplement No. 4 to wage order No. 27, relative to wages and working conditions.
>
> We find it impossible to remain in our present positions unless some immediate action is taken to relieve the situation. It is the unanimous opinion that the wages provided in this article are entirely inadequate.
>
> We find the rate paid the skilled crafts under our supervision is far in excess of the existing salary provided for supervisory forces, and it is impossible to retain the respect of the employees so long as this condition exists.
>
> The foreman's position should be considered a position of intelligence and ability, and the salary paid to men in this capacity should be such that they would command the respect of their subordinates, which, under present conditions, is impossible to do, when they receive a much higher rate of pay, and as a result the position of foreman is a place of contempt and would not inspire any man possessed with intelligence and ability to work for.
>
> We earnestly desire to impress upon you gentlemen the importance of this proposition, and trust you will give it the consideration it warrants, in view of the fact that foremen have been underpaid for the past several years and, especially, since they have been required to work excessive hours without any additional compensation makes it very imperative that this matter be given immediate attention, as foremen on the lines are very dissatisfied under existing conditions.

Mr. Sines offered several reasons why his board was not in a position at that time to consider our protest. A conference was held a few days later with the director of operation, Mr. Carl Gray, who gave careful consideration to our protest and admitted there was an element of justice in it. As a result of this conference, on October 1, 1918, I received the following telegram:

> Referring to your letter to the wage board under date of September 17, in regard to supervisory forces of the locomotive and car departments, I expect to be in my office at Lasalle Station, Chicago, October 3, at 10 o'clock, and shall be glad to see you there if convenient.
>
> A. H. SMITH, *Regional Director.*

On October 17, 1918, Director General McAdoo issued supplement No. 7 to circular No. 28 in which the supervisors of mechanics were granted a substantial increase in compensation and other desirable changes as to classifications, etc.

I herewith quote from Mr. E. T. Whiter's presentation to the Railroad Labor Board, February 3, 1921, pages 3519 to 3520 of its proceedings:

> On pages 3740 to 3747, inclusive, of the minutes will be found table introduced by International President O'Neil, showing the scale of pay authorized by the Railroad Administration during the period of Federal control. This authority was granted by the director general in October, 1918, effective as of June 1, 1918. It will be observed that the scale provides "basic" and "maximum" rates, and not "minimum" and "maximum" rates. This scale was recommended to the director general by the regional directors, who held a conference in Chicago in the early part of October, 1918, at which conference representatives of the International Association of Railroad Supervisors of

Mechanics were present and presented to them the conditions confronting their constituents and their views as to what adjustments in wages and working conditions were necessary in order to preserve the relations in pay which should exist between the supervisory forces and the employees supervised.

We then set about to improve the working conditions of the supervisors of mechanics. I herewith quote from an address of Mr. W. T. Tyler, director of operation, October 28, 1919, at St. Louis, Mo., during the first annual convention of the International Association of Supervisors of Mechanics:

This being your first convention, your organization being just a year old, you have before you, of course, very weighty problems. There is unquestionably a place in the sun for your organization, and from what business I have had with your officers, I believe that you are going to make the most of it. My dealings with your officers have been most agreeable and most pleasant. Unfortunately, a great many other matters have, of necessity, taken precedence, so that we have not gotten around to your matters. I have, in fact, with me now, the entire file sent out from Washington for my consideration on my way back, so that when I get back to Washington I will be able to have a meeting with my associates there and work out for you a suitable set of rules and conditions as near as possible to what your president asked for.

I herewith quote an order issued by Director of Operation W. T. Tyler, under date of December 8, 1919:

GENTLEMEN: Because of the exceptional importance of the work of supervisory foreman in the mechanical departments, and the fact economical and efficient shop operation depends so largely upon their efforts and cooperation, it is desired that their classification, working conditions, and privileges be made definite and uniform.

To that end the director general directs that general foremen, roundhouse foremen, departmental foremen, and assistants will be given consideration and advantages attaching to officers of similar ranks in other departments, as follows:

(*a*) Reasonable period of time lost on account of sickness without loss of pay.

(*b*) Two days off each month for all salaried foremen whose tour of duty consists of seven days per week.

(*c*) Two weeks vacation a year with pay for all salaried foremen who have acted as officials continuously for one year or more.

(*d*) Privileges of resigning instead of being shown as discharged or dismissed.

(*e*) When charged with an offense likely to result in dismissal, a hearing to be given by a superior officer other than the immediate superior, at which hearing the foreman in question may be represented or assisted by any other foreman whom he may select for that purpose.

(*f*) Card transportation to be granted to all salaried foremen, the extent of such transportation to be based on the general practice for other division officers and the importance of the position the foreman occupies.

It is not possible to lay down a definite seniority rule, because ability and merit are of paramount importance in this highly responsible work and in any event must govern, but where the ability and merit of two men are equal the choice of positions on a division should, as far as practicable, be determined upon the basis of the seniority.

I am sure that the uniformity brought about by the above rules will result in more loyal and efficient service by the foremen affected and will reduce complaints to a minimum.

Will you please take necessary action to have this put in effect at once.

W. T. TYLER.

Sent to Regional Directors R. H. Aishton, Chicago, Ill.; L. W. Baldwin, Philadelphia, Pa.; B. F. Bush, St. Louis, Mo.; A. T. Hardin, New York, N. Y.; Hale Holden, Chicago, Ill.; N. D. Maher, Roanoke, Va.; B. L. Winchell, Atlanta, Ga.

This award was applied by the managements quite generally throughout the United States, and is the first time any specific uniform rules were established governing working conditions of supervisors of mechanics.

The report of the Railroad Labor Board previously referred to further indicates that in July, 1923, the supervisors of mechanics who were being paid a monthly rate were receiving an average of $3.51 per day above the daily rate paid the mechanics. The association which I represent has established agreements with a number of managements governing the working conditions of supervisors in their employ. My purpose in relating these facts in detail was to direct the attention of your committee to the favorable change in the conditions of those referred to since having the right to organize and the opportunity to represent themselves. We most earnestly urge that Title III of the transportation act, 1920, be not amended or superseded by any law that might in any way disturb this situation.

It might not be amiss for your information at this time to state that after the transportation act, 1920, became law at hearings held by the Interstate Commerce Commission in accordance with article 5 of section 300 certain representatives of the employees' organizations now promoting Senate bill 2646 contended that the classes now recognized as being subordinate officials should be classified as employees and representatives of the managements contended they should be classified as officials. It was entirely through the concerted efforts of representatives of subordinate officials' organizations that the intent of the transportation act, 1920, relative to subordinate officials was really put in effect. This information is offered for the purpose of impressing your committee with the necessity of definitely providing for this class in any legislation that may be enacted affecting them.

Referring to articles 5, 6, and 7 of section 1, my understanding is that these articles refer to the classification of all those engaged in the railroad service. In my opinion, any attempt to govern the classification of railroad employees, subordinate officials, and officers in the manner described in these sections will result in endless dissatisfaction. The rules in question are so interwoven and complicated that I doubt if the parties responsible for their issuance could interpret their meaning. It is, therefore, very fortunate they are only intended to be used as a guide in making reports to the Interstate Commerce Commission. I believe Ex parte 72 of the Interstate Commerce Commission of February 5, 1924, clearly defines the classes coming within the subordinate official class. This in itself indicates the classes that should properly be considered employees, also the classes that should be considered as officers. I fully realize, however, why the proponents of the bill desire some recognized, practically inflexible method of classifying employees and subordinate officials, but I believe this matter is now taken care of as far as practicable by law.

Referring to boards of adjustment, under the caption (B) adjustment, page 8, line 4:

Board of Adjustment No. 1 shall be composed of 14 members, 7 members constituting the labor group, representing the employees and subordinate officials of the carriers, embraced within the classification of (1) engineers, (2) firemen and hostlers (including outside hostler helpers), (3) conductors, (4) trainmen, (5) switchmen and yard service men, (6) telegraphers (including telephoners, agents, levermen, train directors, towermen and staffmen), (7) train dispatchers.

It is my understanding that the organizations of engineers, firemen, and conductors promoting this bill have confined their activities with reference to representation to the employees. The organizations of trainmen, switchmen, and telegraphers have from time to time, I am informed, represented certain classes that are now classified as subordinate officials. Train dispatchers are clearly defined as subordinate officials by the Interstate Commerce Commission in its Ex parte 72 of February, 1924. They are therefore, in my opinion, completely out of place in this group. I heartily concur in the following statement of Mr. John G. Walber, chairman subcommittee of advisory committee on operation, Association of Railway Executives, made before your committee March 29, 1924:

> It is incompatible with proper organization and supervison to have the supervisory forces subject to the dictation and control of the employees who so greatly outnumber them, and it is respectfully urged that in the interest of proper supervision that nothing be done to extend the association of employees and subordinate officials in negotiations, or the scope of agreements, boards of adjustment and representation.

I wish to direct the attention of the committee to the fact that there are no subordinate officials included in the group embraced within the classification enumerated in Board No. 2. I can truthfully say further that the organizations mentioned in the Digest of the Railway Act, issued by the proponents of this bill, as being the corresponding national labor organizations of Board No. 2 are not authorized to represent subordinate officials. In my opinion, the practical effect of this section, if enacted into law, would be to force the subordinate officials to take out active membership in the employees' organizations. This would defeat the very purpose of the act so far as this class of subordinate officials is concerned. It would really deprive the supervisors of mechanics of the right to choose their methods of representation. We hope the day will never come again in this country when supervisors of mechanics will be subjected to the indignities, humiliations, and embarrassments that are the natural result of affiliation with organizations of employees. Such affiliation can rightfully be termed "taxation without representation." With all due respect and deference to the proponents of the bill, I would suggest the words "and subordinate" be stricken from line 5, page 9, and the words "official of the carriers" be also stricken from line 6, page 9. This would eliminate all pretense at the inclusion of representation of subordinate officials by Board No. 2. My remarks with reference to the impracticability of the employees representing subordinate officials are equally applicable to any situations of this kind which may exist on Board No. 3. I would further suggest, in view of the fact the combined number of employees to be represented by Board No. 4 is 10,683, that one additional employee representative and one additional management representative be added to Board No. 3 to take care of these employees.

We most earnestly urge that a board of adjustment be provided for the subordinate official classes. This can be arranged without increasing the number of representatives provided in the present plans for the boards of adjustment by placing the train dispatchers in the board for subordinate officials and confining the representation of the marine workers to one in Board No. 3. There are 125,000 or more subordinate officials. I believe Board No. 4 should be composed of

six members, three constituting the labor group representing the subordinate officials of the carriers, embraced within the classification of auditors, claim agents, foremen, supervisors, and roadmasters, train dispatchers, technical engineers, yardmasters, storekeepers, supervisory station agents, and only those of these classes, that are classified as subordinate officials, by the Interstate Commerce Commission in its order of February 5, 1924, Ex parte 72, and such other classes as may hereafter be classified as subordinate officials, and three members constituting the management group, representing the carriers. In our opinion such a board would function to the satisfaction of all concerned.

We believe the following provision of Title III of the transportation act of 1920 should be incorporated in any legislation that may be enacted affecting subordinate officials:

> The term "subordinate officials" includes officials of carriers of such class or rank as the commission shall designate by regulation formulated and issued after such notice and hearing as the commission may prescribe to the carriers, and employees and subordinate officials of carriers, and organizations thereof, directly to be affected by such regulations.

Section 5, with reference to lines 23 and 24 of page 17 and lines 1, 2, 3, and 4 of page 18, namely—

> If such efforts to bring about an amicable adjustment through mediation and conciliation should be unsuccessful, the board shall endeavor as its final required action to induce the parties to submit their controversy to arbitration, in accordance with the provisions of this act.

I feel each party should be compelled to submit such matters to arbitration; otherwise it is possible for either party to make the entire scheme of adjusting disputes ridiculous.

With reference to section 7, I believe the Board of Mediation and Conciliation should be vested with the authority to stipulate the number of arbitrators to be named, instead of the responsibility resting upon the parties to the controversy.

I have observed nothing in the bill indicating the method to be used in determining the national organizations of employees and subordinate officials which will have the right to make nominations for representation on the various boards of adjustment. I believe something definite regarding this matter is very essential.

I am firmly convinced the real reason there is such concerted, determined opposition to the Railroad Labor Board by representatives of the so-called standard organizations of railroad employees is due to the fact they have not, so far, succeeded in dictating just who should constitute the personnel of the labor group on this board. The President wisely refused to permit these influences to supersede his right of discretion in the matter of making these appointments.

APRIL 9, 1924.

Mr. A. M. BRETTELLE,
Fort Worth, Tex.

DEAR MR. BRETTELLE: I am in receipt of a telegram from you, dated April 8, protesting against the passage of the Howell bill, known as S. 2646. I will submit your telegram to the subcommittee of the Interstate Commerce Committee, who is considering the bill, so that they may have the benefit of your views in the matter.

Very truly yours, ———.

FORT WORTH, TEX., *April 8, 1924.*

Hon. JAMES COUZENS,
Washington, D. C.:

As general chairman of the association of mechanical department employees on the Texas & Pacific Railway representing 2,900 workers—sheet metal workers, electricians, carmen, apprentices, boilermakers, blacksmiths, machinists, and all class of helpers—am emphatic in protest against passage of bill S. 2646, known as a bill to provide expeditious and prompt settlements of disputes between carriers and employees. Our contention is that if this bill were to become a law it would deprive associations such as we have of representation before the tribunal of adjustment by the act and would naturally destroy our organization, which is enthusiastically supported by 95 per cent of all shopworkers on this property. We have had considerable success and all manifest satisfaction with the transportation act effective in 1920, which guarantees us representation before the United States Railway Labor Board, which Senate bill 2646 proposes to abolish and deny us the right which we are now enjoying. The proposed act discriminates against other than national craft organizations and it is a clear discrimination against our constitutional rights. We therefore petition you to make exerted effort to protect us by defeating this bill.

A. M. BRETTELLE, *General Chairman.*

ASSOCIATION OF RAILWAY EXECUTIVES,
Washington, D. C., April 7, 1924.

Hon. JAMES COUZENS,
Chairman Subcommittee Interstate Commerce Committee,
United States Senate.

DEAR SIR: While I have not yet had an opportunity to see the concluding statement of counsel for the proponents of the Howell bill (S. 2646), I am advised that after I, as chairman of the executive committee of the Association of Railway Executives on March 28 had made a statement before your subcommittee in opposition to national boards of adjustment as in that bill provided, he undertook to charge me and to charge Mr. Gray, another witness before your committee, with inconsistency and to sustain the charge by citing the majority report of the committee on labor of the Association of Railway Executives, made on March 29, 1920, which was signed by Mr. Gray as chairman and in which I, as a member of the committee, concurred. This majority report recommended an agreement with the labor unions in favor of three national boards of adjustment under the conditions then existing, and was made under the following circumstances:

The railroads had just emerged from Federal control and had been for less than a month in the hands of their owners. These owners were confronted with a condition of great disorganization in respect to their properties, with marked unrest in the ranks of their labor, with large and insistent demands for increases of pay from their employees, which had been handed over to them by the Railroad Administration, with rates admittedly inadequate, with the fact that during Federal control the railroads had been nationalized, that there were national boards of adjustment under the Railroad Administration, and with the obligation and necessity, notwithstanding the great difficulties surrounding them, of furnishing the public with adequate and continuous transportation.

In the midst of these conditions, they received a demand from the standard railroad labor organizations for the creation of three national railroad labor boards of adjustment, in the manner permitted in section 302 of the transportation act of 1920. As is shown by the dissenting report of General Atterbury, found at page 2249 of volume 5 of the hearings on Senate Resolution 23, the chairman and other members of the committee considered that this demand from the labor leaders for these boards created an emergency. It was feared that this emergency, unless avoided, might produce a crisis and bring on an interruption of transportation at this critical period in the resumption of the duties of transportation by the owners of the properties. It was considered of the highest importance to avoid such a crisis.

Moreover, as will appear from the report itself, it was considered the part of wisdom, in view of the immense number of cases which inherited from the Railroad Administration, to make every possible effort to relieve the newly organized Labor Board as far as possible of the burden of other cases likely to come before it, and when it was feared that unless some relief was found the board might break down at the very beginning of its work under a load of cases which it would find itself unable to handle.

Impelled by the desire to prevent a crisis between the carriers and their employees and by the conviction that the new system of regulation must be supported in order that it might function properly, the majority of the committee were willing to consent to the demands of labor for the establishment of three national adjustment boards for the time being.

Notwithstanding this, however, the Association of Railway Executives, when the matter was brought before it, rejected the report of the majority and adopted the report of the minority against national boards of adjustment.

Since then conditions have completely changed. After this action by the association the principal labor organizations abandoned their demand for national adjustment boards and have participated in the formation of boards of adjustment that are either local or in some cases embrace more than one or several carriers but are in no case national, and the Labor Board is no longer new to its duties or overloaded with work in the sense that it will not be able to function with reasonable expedition.

The prposal now to establish national boards of adjustment involve a change from local boards, which are working satisfactorily, to national boards; whereas in the former case the proposal was to change from the national boards then in existence to local boards.

There never was a time when, if considered on the merits and free from the pressure of conditions, national boards could, in my judgment, be justified. Under the changed conditions which have now arisen the palpable and substantial objections to their creation, as set out in my testimony, appear to my mind conclusive.

I may add that it was the attitude of the Association of Railway Executives, even under the circumstances as they existed on March 29, 1920, that national boards of adjustment could not be justified, as was shown by the rejection of the majority report and the adoption of the minority; and that is still the attitude of the association, as shown by my testimony as chairman of the executive committee of the association before this committee.

I have not been able to confer at length with Mr. Gray on this subject since his testimony and my own were given, but I am justified in stating that this letter expresses his views as well as my own.

I respectfully request that you make this letter a part of the record of the hearings.

Very sincerely yours,

HALE HOLDEN.

NEW YORK, *April 7, 1924.*

Hon. JAMES COUZENS,
United States Senate, Washington, D. C.

DEAR SENATOR COUZENS: Thank you for your letter of 4th instant. Since both the labor representatives and the railroad representatives have quoted to a greater or less extent from public statements made by me, in the light of my experience as Director General of Railroads, and have attempted to draw inferences as to my position on the matters involved in S. 2646, I write to inquire whether it would be compatible with the policy of your subcommittee to incorporate my letter of 1st instant in the record of the hearings? If so, I would be glad to see this done, and I believe it would be in the interest of promoting a clear understanding, because I have attempted to deal with the subject on the basis of the convictions I derived from my public experience and not from the standpoint of any of the various interested parties.

Sincerely yours,

WALKER D. HINES.

APRIL 4, 1924.

Mr. WALKER D. HINES,
New York City.

DEAR MR. HINES: I have your letter of the 1st concerning the hearings now being held by a special committee of the Interstate Commerce Committee on Senate bill 2646, introduced by Senator Howell.

From reading over your letter I believe all of the features covered in it have been testified to by the railroad representatives and perhaps have amplified or put in a more forceful way some of the opposition they have to the bill.

We resume our hearings this morning and hope to complete them on Monday. Mr. Hooper, of the Labor Board, is to appear to-day and I assume that he will cover to a large extent the ground that you have covered, so all in all I hardly think it will be necessary for you to come before the subcommittee. I will, however, suggest it to my colleagues and get their viewpoint so that if they disagree with me I may let you know so that you may come.

Thanking you for your interest in the matter and your offer to serve the committee, I am,

Sincerely yours,

———— ————.

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NEW YORK. *April 1, 1924.*

Hon. JAMES COUZENS,
United States Senate, Washington, D. C.

DEAR SENATOR COUZENS: In the hearings now in progress before your submittee on S. 2646, introduced by Senator Howell and dealing with the settlement of disputes between carriers and their employees, several references have been made to views expressed by me during and since Federal control. I should be glad, therefore, to appear before your subcommittee, if it so desires, and express my views, of which I here attempt to give you a brief outline.

The bill deals with two distinct matters, which can best be separately discussed.

Changes in rates of pay.—Briefly, the effect of the present law's provisions as to these matters is as follows:

If the carrier and its employees do not agree, either party may refer the dispute to the Labor Board, which shall render a decision and give it due publicity. This decision is merely advisory to the parties and to the public, but is valuable as giving the opinion of duly constituted public authority upon the merits of the controversy. The Supreme Court of the United States thus expresses the matter:

"The decisions of the labor board are not to be enforced by process. The only sanction of its decision is to be the force of public opinion invoked by the fairness of a full hearing, the intrinsic justice of the conclusion, strengthened by the official prestige of the board, and the full publication of the violation of such decision by any party to the proceeding. The evident thought of Congress in these provisions is that the economic interest of every member of the public is the undisturbed flow of interstate commerce and the acute inconvenience to which all must be subjected by an interruption caused by a serious and widespread labor dispute, fastens public attention closely on all the circumstances of the controversy and arouses public criticism of the side thought to be at fault. The function of the Labor Board is to direct that public criticism against the party who, it thinks, justly deserves it." (Penn. R. R. *v.* Labor Board, 261 U. S., 72, 79.)

The Labor Board may also take up such a dispute on its own motion and render decision if the dispute is likely substantially to interrupt commerce. The Labor Board may also upon its own motion suspend the operation of any settlement reached by the carrier and its employees if there is involved such an increase in wages as is likely to necessitate a substantial readjustment of the rates.

In my opinion the effect of these provisions is to make both parties to the controversy show due respect to a public opinion that has been enlightened by an official expression on the merits of the controversy. I believe this is a salutary objective and is calculated to influence both parties to be reasonable in their demands, thus minimizing the danger of arbitrary action on either side leading to a strike. The adoption of these provisions in the present law constituted a great forward step affording an opportunity for public opinion to function in an intelligent way while avoiding compulsion on either the carriers or the employees.

S. 2646 abolishes this important and beneficial plan and provides no substitute. Under that bill if the carrier and its employees disagree neither can without the consent of the other take the question to any public tribunal for investigation and report and there is no public tribunal which on its own motion can investigate and report.

The board of mediation and conciliation can not perform any such function. All it can do is to ask the parties to agree on the rates of pay or to agree to arbitrate. The time the public needs enlightenment as to the merits of the controversy is the time when the parties refuse to agree, and that is the very time when, according to S. 2646, there will be no machinery at all for enlightening the public.

The provisions as to arbitration supply no substitute for the present provisions for an impartial and official report when a strike is in prospect. The agreement to arbitrate in itself obviates the prospect of the strike. The case where an official report is really needed is where the parties disagree, reject mediation, and refuse to arbitrate and a strike develops. The present law provides an official report in this hour of public need. S. 2646 provides nothing to meet that emergency.

The relative operation of the present law and S. 2646 may be tested by reference to the demand of the train and engine employees for the basic eight-hour day in 1916. All efforts at mediation were vain. All efforts to obtain arbitration were vain. The public was and remained without any official investigation and report as to the merits of the controversy. If the present law had been in force such official report would have been forthcoming. Under the law then in effect there was not and could not be any such report. In this respect S. 2646 is like the old and inefficient law which proved valueless in 1916 and which was displaced on account of its inefficiency. We should not now return to the same inefficiency.

I do not believe Congress should abandon the sound and important principle of the present law merely because of the dissatisfaction which may be supposed to exist with reference to the personnel or the performance of the Labor Board. I think I am in a good position to make a fair estimate of the difficulties which have confronted the Labor Board during the four years of its existence. I feel satisfied that the board has done well under the circumstances and has rendered a great public service. But if there are any practical defects in the constitution of the board or in its procedure, I earnestly urge that those matters be dealt with on their merits, but without disturbing the essential principle that the public urgently needs an official tribunal which will investigate and report as to the merits of disputes which the parties can not settle, either through agreement or arbitration.

Another important principle of the present law is abandoned by S. 2646, and that is the principle that there ought to be a continuing public tribunal which will systematically assemble and develop statistics and data upon the important and difficult problems connected with railroad wages and working conditions. There ought to be gradual progress in promoting a general and consistent understanding of the vital facts and factors in this matter. The present law provides the opportunity for this accomplishment by giving the Labor Board the power and duty to develop such statistics and data. There is no corresponding opportunity provided by S. 2646. Apparently the work which has already been begun in this direction by the Labor Board would come to an end if S. 2646 were adopted.

Let me also present my personal conviction that even in cases where the carrier and its employees agree to arbitrate, the outcome would be unsatisfactory under S. 2646 both for the contending parties and the public. The matter of railroad wages and working conditions is amazingly technical and complicated. It calls for specialists to understand the merits of the problems presented and to express conclusions in language which will be accurate and understandable by railroad officers and employees. I believe that any scheme of arbitration will prove seriously disappointing which contemplates referring such matters to casual boards of arbitrators selected simply for a particular case and with no continuing training and knowledge in the matters involved. I believe it is common knowledge that the casual boards of arbitrators which were selected before the war under the old law that proved so disappointing, and which in this respect was not seriously dissimilar from S. 2646, proved unsatisfactory, and made awards which it was difficult to understand and which gave great opportunity for dispute and evasion and delay. My understanding is that these unsatisfactory results had become so annoying that the employees had become thoroughly disgusted with the idea of arbitration, and that at least some of the important organizations had made it clear that they would never again submit to arbitration. If I am not mistaken, it was this condition which was largely responsible for the refusal of the train and engine employees to submit to arbitration their demand for the basic eight-hour

day in 1916. Surely a method of adjustment which has already proved so disappointing can not now be looked forward to with any degree of substantial confidence.

But I return to my main point, and that is that the public is entitled, when the parties can not agree and refuse to arbitrate, to have the benefit of an official investigation and report upon the merits so that public opinion may be duly enlightened in the event the position of either side leads, or threatens to lead, to a strike. The present law makes this provision. S. 2646 discontinues this provision.

While what I have said has been directed primarily to demands for changes in rates of pay, substantially the same considerations apply to demands for changes in the rules or working conditions. Indeed, the illustration I have cited of the demand for the basic eight-hour day in 1916 was a demand for a change in working conditions rather than for a change in rates of pay.

Grievance or application of agreements.—When the controversy does not involve a proposal to change the rates of pay or the rules or working conditions, but involves some grievance growing out of the application of the rates of pay or rules or working conditions, both the present law and S. 2646 contemplate resort to an adjustment board, i. e., a bi-partisan board consisting half of carrier representatives and half of employee representatives.

The present law recognizes the utility of adjustment boards by providing that they may be established by agreement between any carrier, group of carriers, or the carriers as a whole, and employees or subordinate officials of carriers, or organizations or group of organizations thereof."

The fundamental changes proposed by S. 2646 are: (1) To make compulsory that which is now permissive; (2) to adopt as the sole method one of the numerous alternative methods now permitted, i. e., a national board to the exclusion of all group or local boards; and (3) to confine employee participation in the national board to specifically designated labor organizations to the exclusion of all others.

The theory of an adjustment board is that it is to be constituted one-half of representatives of the management and one-half of representatives of the employees, and that any decision reached by a majority vote shall be binding on both parties. Where the parties agree upon the jurisdiction and territorial scope of such an adjustment board, I believe it is highly serviceable in disposing of grievances and therefore in eliminating subjects of dispute which might otherwise call for investigation and report by the labor board or other public authority. But the questions raised by S. 2646 are whether such boards shall be established by compulsion regardless of agreement of the parties, whether they shall be Nation-wide in their scope and whether they shall be representative of particular labor organizations designated by law to the exclusion of all others. In my opinion the formation of national adjustment boards, through statutory compulsion as proposed by S. 2646, is a step involving so many complications and far-reaching disturbances of existing conditions that such a requirement can not be justified unless it can be shown that existing methods of dealing with grievances are hopelessly unsatisfactory and that nothing short of such compulsory national boards gives promise of improvement. So far I am aware of no facts which call for such a conclusion. In the absence of clear proof to such effect, I believe that it is a sound general principle to permit this matter of adjustment of grievances to develop along lines of natural evolution through voluntary action free from compulsion on either side. This is especially true, if, as I believe, there is now gradual improvement in the methods of handling these matters through cooperation between managements and employees. I think the principles of collective bargaining between carriers and their employees have had great and salutary impetus in recent years, and that present indications are that this beneficial movement will prosper more without compulsion than with it. In any event I do not see how Congress could justify giving to a selected number of railroad labor organizations, to the exclusion of all others, the sole right to make nominations to public office, i. e., to places on the national boards, as S. 2646 proposes to do.

In conclusion I desire to point out certain distinctions between the adjustment boards of Federal control and the national adjustment boards proposed by S. 2646.

During Federal control adjustment boards on a national basis were natural, and indeed inevitable, because the railroads were being operated as a single national unit. Even at that time there was no compulsion. The regional

directors were willing on their part to join in the agreements establishing such central boards. Certain organizations of employees were willing on their part to agree. The boards were voluntarily established and functioned in matters arising under schedules and agreements with the employee organizations which were represented on the adjustment boards. Grievances of employees on railroads not having agreements with organizations represented on the adjustment boards were dealt with through machinery created by the Director General of Railroads.

At the end of Federal control there had been a large degree of unification by reason of the fact that employees very generally on all railroads had become members of certain national organizations and the working conditions had become substantially uniform throughout the country (the principal exception being that the working conditions of the train and enginemen, though nationally organized, differed considerably on the different railroads). Under these circumstances there would have been a much greater degree of practicability in creating national adjustment boards (which was one of the alternatives contemplated by the transportation act which then took effect) than would be the case to-day. At the present time a great many variations in working conditions which did not exist at the end of Federal control have developed because individual railroads have negotiated new agreements with their employees. Furthermore, on many railroads the organizations now representing some important classes of employees are different from the national organizations which represented the employees at the close of Federal control. Therefore the obstacles at the present day in the way of national boards of adjustment even by voluntary action are very much greater than those that existed at the end of Federal control.

I repeat that I shall be glad to appear before your subcommittee and give my views at great length if you so desire.

Sincerely yours,

WALKER D. HINES.

P. S.—I would like to add that in expressing the above views I am speaking solely for myself and for my own account and without retainer from or obligation to any interest in respect of this question. I am simply expressing my personal conviction, based on my own experience, as to what is best for the general public interest.

W. D. H.

AMERICAN FEDERATION OF RAILROAD WORKERS,
Salem, Mass., April 8, 1924.

Hon. JAMES COUZENS,
Chairman Subcommittee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

HONORABLE SIR: Permit me to direct your attention to Senate bill 2646, which the membership of the American Federation of Railroad Workers in New England and other sections of the United States view with considerable alarm and apprehension.

The American Federation of Railroad Workers is an independent railroad labor organization and was organized May 22, 1901.

It is not connected or affiliated in any way whatever with the American Federation of Labor, nor the nationally organized crafts, nor the railroad brotherhoods, nor any of the organizations or representatives of said organizations who favor the passage of Senate bill 2646.

If the bill referred to should become a law, hundreds of thousands of railroad employees who are members of various independent railroad labor organizations throughout the United States will be deprived of the right to be represented by representatives of their own choice, which right they now have under Title III of the transportation act and decisions of the United States Railroad Labor Board.

Senate bill 2646, reads in part as follows:

"The labor group of 7 (seven in the case of Boards 1 and 2, three in Boards 3 and 4) is to be appointed by the President, by and with the consent of the Senate, from not less than 14 nominees, whose nominations shall be made and offered by the employees and subordinate officials, 2 by each of the nationally organized crafts described above; of such 2 not more than 1 shall be appointed."

The foregoing quotation savors of the objectionable and notorious Anderson amendment, presented in the Esch bill, when the Esch-Cummins bill was pend-

day in 1916. Surely a method of adjustment which has already proved so disappointing can not now be looked forward to with any degree of substantial confidence.

But I return to my main point, and that is that the public is entitled, when the parties can not agree and refuse to arbitrate, to have the benefit of an official investigation and report upon the merits so that public opinion may be duly enlightened in the event the position of either side leads, or threatens to lead, to a strike. The present law makes this provision. S. 2646 discontinues this provision.

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The foregoing quotation savors of the objectionable and notorious Anderson amendment, presented in the Esch bill, when the Esch-Cummins bill was pend-

ing in the early part of 1920, and which was not adopted by the joint committee, composed of the conferees of the House and Senate.

The Anderson amendment sought to give certain organizations—that is, those who were affiliated with the American Federation of Labor and the railroad brotherhoods—a monopoly of the organized-labor movement on the railroads of the United States.

Senate bill 2646 seeks to establish a monopoly of the organized-labor movements on the railroads in the United States for "the nationally organized crafts therein described."

"The nationally organized crafts," who seek to monopolize the labor movement on the railroads through the passage of Senate bill 2646, are the same identical organizations that sought to monopolize the labor movement on the railroads through the Anderson amendment to the Esch bill in 1920.

The independent labor organizations on the railroads to-day are greater numerically than they have ever been, due to the fact that many of the carriers on advice of the Labor Board, in its resolution of July 3, 1922, assisted in establishing organized-labor bodies on their respective roads of the employees who remained in service on July 1, 1922, and those who entered service on or after July 1, 1922.

On many railroads where the independent organizations have been instituted since July 1, 1922, they are the majority organization—for example, the Boston & Maine Railroad, the New York, New Haven & Hartford Railroad, the Pennsylvania Railroad, and many other roads in other sections of the country.

On the other hand, "the nationally organized crafts," who seek a monopoly through the enactment of Senate bill 2646 into law, have little or no representation on the above-named railroads, and the same is true regarding their standing on many other roads in the country.

The enactment into law of Senate bill 2646 and thereby granting a monopoly to "the nationally organized crafts," who have no represeutation on many railroads, who are a minority organization on many others, and who are little more than a shadow of their former selves, would be a gross injustice to hundreds of thousands of railroad workers in that their chosen representatives would have no standing before such a tribunal.

All those outside of "the nationally organized crafts" under this proposed Senate bill, 2546, would be denied the right they now enjoy, and Senate bill 2646 would work out as a coersive measure in building up "the nationally organized crafts" to the detriment of all other railroad labor organizations.

Passing such an act into law would be virtually subsidizing "the nationally organized crafts", and forcing all those outside of their organizations to look to them for representation and eventually forcing all independent railroad labor organizations to become affiliated with them, which they have no desire to do.

The phrase "the nationally organized crafts," as used in Senate bill 2646, is a subterfuge to force the same notorious and fraudulent principles of the Anderson amendment to the transportation act of 1920 which the conferees refused to consider when framing the transportation act, admitting at that time that said amendment was an infringement of the rights of the independent railroad labor organizations and did not provide adequate, proper, and sufficient representation for such independent organizations.

The said Anderson amendment was set aside by the conferees of the House and Senate and provisions made in the transportation act of 1920 giving adequate, proper, and sufficient representation to such independent organizations to present their cases to the United States Railroad Labor Board.

The independent railroad labor organizations are majority groups on a large number of railroads, and the "craft organizations," attempting to lobby Senate bill 2646 through to enactment, speak for but a few on such railroads. It is questionable even that the aforesaid "the nationally organized crafts" represent a majority of the railroad workers in the entire country, and even though they should represent a majority of the railroad workers it would be unethical and inequitable by the passage of this Senate bill to force minority organizations to accept representation for presenting their grievances from a source that is disinterested and unfriendly. Such representation would be a farce and would fail of the purpose of the transportation act of 1920 in assuring to all railroad labor organizations a fair hearing.

The passage of this Senate bill 2646 would be a serious impairment of the rights of a large number of independent railroad labor unions, and is contrary to the intent and purpose of the transportation act, which provides for

the appointment of the Labor Board to be an impartial tribunal in the settling of disputes between the carriers and the employees and guaranteeing proper representation to all parties concerned.

We do not believe that your honorable and respected committee wants to lend itself to the perpetuating of a fraud upon hundreds of thousands of railroad workers by depriving such workers of rights guaranteed them by the transportation act of 1920, which the enactment of Senate bill 2646 would most certainly bring about.

I have therefore been advised and instructed by the membership of the American Federation of Railroad Workers on the Boston & Maine, New York, New Haven & Hartford, Maine Central, and Boston & Albany Railroads to convey the foregoing information to your honorable committee and to protest in their behalf against the enactment of Senate bill 2646, and trust that the information herein will be helpful to you, and pray that the rights of the American Federation of Railroad Workers and its members, as well as the rights of all other independent railroad-labor organizations, will be fully considered, protected, and preserved.

Yours very truly,

T. H. CONDON, *Vice President.*

DIGEST OF PRESENTATION OF W. V. O'NEIL

PREFACE

The International Association of Railroad Supervisors of Mechanics was organized in St. Louis, Mo., October 28 to 31, 1918. It is not affiliated with any organization or association of railroad employees or subordinate officials.

DUTIES AND RESPONSIBILITIES OF SUPERVISORS OF MECHANICS

Responsible for upkeep of power and equipment, for work performed by mechanics they supervise, and the expenditure of a substantial amount of the money expended in operating the railroads; also personally responsible for carriers' adherence to the safety appliance, boiler, and locomotive inspection laws.

STATUS, DECEMBER, 1917—JULY, 1923

December, 1917, no representation, working unlimited hours, receiving an average of 17 cents per day above rate paid mechanics, and no uniformity of rules governing their working conditions. July, 1923, receiving an average of $3.51 per day above mechanics' rate, and have generally recognized, uniform rules governing their working conditions; have also negotiated a number of agreements with managements of railroads.

SENATE BILL 2646

Articles 5, 6, and 7 of section 1 will result in endless dissatisfaction. Persons responsible for rules and classifications referred to could not interpret their meaning; they are impossible of practical application. The Interstate Commerce Commission (Ex parte 72, February 5, 1924) clearly defines those constituting the subordinate official classes. Those of higher rank are officials, those of lower rank are employees; this is understandable.

BOARDS OF ADJUSTMENT

Train dispatchers are subordinate officials and should not be associated with employees' representatives on Board No. 1.

There are no subordinate officials embraced within the classes constituting Board No. 2, and organizations referred to as being the corresponding national organization of these classes in the digest of the bill issued by its proponents are not authorized to represent subordinate officials. The words "and subordinate" should be stricken from line "5, page 9," and the words "officials of the carriers," should be stricken from line "6, page 9."

There are only 10,683 employees embraced within the classes constituting Board No. 4, and organizations referred to as being the corresponding national organization of these classes have not to date requested the Interstate Commerce Commission to grant them the right to make nominations to the labor group of the Railroad Labor Board. One employee and one management representative added to Board No. 3 could take care of these classes.

There are 125,000 or more subordinate officials. Board No. 4 should be composed of six members, three representing subordinate officials and three representing the carriers. This does not increase the number of representatives provided in the present plans.

ARBITRATION

In order to protect the public arbitration should be compulsory.

ARBITRATION—MEDIATION

The Board of Mediation and Conciliation should be vested with the authority to stipulate the number of arbitrators.

NATIONAL ORGANIZATIONS

The bill should provide some method of determining the national organizations of employees and subordinate officials, which shall have the right to make nominations for representation on the boards of adjustment.

The organizations promoting the bill have not so far succeeded in dictating who should constitute the personnel of the labor group of the Railroad Labor Board, and is one reason for their concerted opposition to the board.

UNITED STATES SENATE,
Washington, May 8, 1924.

DEAR SENATOR: I have just received from Senator Phipps the inclosed protest against the Howell bill from the various crafts whose members are in the employ of the Santa Fe Railway Co. You will observe that they are very vigorously opposed to the Howell bill, which puts the control of the labor end of this controversy in the hands of the nationally organized unions. I would like this protest to be, at some time, incorporated in the records of the hearings.

Yours cordially,

ALBERT B. CUMMINS.

Hon. ELLISON D. SMITH,
Chairman Committee on Interstate Commerce.

LA JUNTA, COLO., *May 1, 1924.*

Hon. L. C. PHIPPS, *M. C.*,
Washington, D. C.

DEAR SENATOR: Inclosed find copy of postcript edition of the bulletin issued by the shops crafts' associations employed on the Santa Fe Railway system.

You will find therein copy of the presentation made to the Senate Committee on Interstate Commerce, April 7, by representatives of at least 75 per cent of the shop crafts employees on western railroads.

Suggestion No. 1: On behalf of the independently organized railway shop employees we represent, we earnestly protest against any change in Title III of the transportation act and against any possibility of action by the House on the Barkley bill without opportunity for a hearing before a House committee and the presentation of our objections to the bill and iniquity of giving control of the adjustment of railway shop employees' controversies to a small minority of such employees who belong to the so-called national organization.

Suggestion No. 2: We, as representatives of a class of independently organized railroad employees, protest any material change in Title III of the transportation act of 1920, as, in the opinion of our class, it, as it is, better protects the interests of those concerned (the employee, the public, and the carrier) than can possibly be expected from a bill drafted wholly in the interests of the em-

ployees (the American Federation of Labor). From this distance it appears that this is about the nearest piece of class legislation that has come to our attention. It should not be passed.

It is the desire of the men of the various independent shop crafts' associations of the Atchison, Topeka & Santa Fe Railway system that the committeemen of the shop crafts, maintain the above suggestions.

J. W. MAHAN, *Chairman,*
CLAUD BASSETT, *Secretary-Treasurer,*
Machinists' Craft.
J. E. MAXWELL, *Chairman,*
VICTOR WRIGHT, *Vice Chairman,*
Boilermakers' Craft.
DEAN T. ECCLES, *Chairman,*
A. KOPLAN, *Vice Chairman,*
WM. HOLZSCHUH, *Secretary-Treasurer,*
Sheet Metal Workers' Craft.
W. E. MATHER, *Chairman,*
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U.S. Senate. Interstate Commerc
Arbitration Between Carriers and
Employees

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TITLE